



Matt Blunt, Governor • Doyle Childers, Director

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February 6, 2006

Ms. Amy Algoe-Eakin
Environmental Protection Agency
Air Planning and Development Branch
901 North 5th Street
Kansas City, KS 66101

RE: "Finding of Substantial Inadequacy of Implementation Plan; Call for Missouri State Implementation Plan Revision"

Dear Ms. Algoe-Eakin:

The Missouri Department of Natural Resources' Air Pollution Control Program appreciates the opportunity to provide comments on the proposed State Implementation Plan (SIP) call for the Herculaneum lead nonattainment area published in the December 19, 2005, *Federal Register* (70 FR 242).

The program supports the one-year SIP submittal deadline and the two-year attainment date as proposed. This time frame is ambitious, but it is important that this response be made as expeditiously as possible to address this community's concerns about continuing lead exposure.

Missouri has a number of statutory requirements related to administrative rulemaking. It can take 18 to 20 months to complete a rulemaking. Therefore, the program will likely rely on a Consent Judgement between the department and the Doe Run Company to make the SIP revision enforceable. By its nature a Consent Judgement requires Doe Run to consent to whatever appropriate conditions are needed as part of the SIP revision. The possibility exists that Doe Run will not voluntarily accept such conditions. If this happens, the only recourse the program has is to proceed with an administrative rulemaking on an administrative rule time line missing the submittal deadline. One solution would be to extend the submittal deadline, but delaying a response to community health concerns is unacceptable. As a remedy the program recommends that EPA include some sort of provision in the SIP call that places the responsibility more directly on the Doe Run Company. To accomplish this EPA should consider all federal remedies, such as the parallel preparation of a Federal Implementation Plan that can be implemented immediately if Doe Run decides that they cannot accept revisions voluntarily.



Ms. Amy Algo-Eakin
Page Two

We ask that you will carefully consider these comments as you finalize the proposed Herculaneum SIP call. We look forward to collaboration with EPA in this effort. If you have any questions you may contact Mr. John Rustige of the Air Pollution Control Program at P.O. Box 176, Jefferson City, MO 65102 or by phone at (573) 751-4817.

Sincerely,

AIR POLLUTION CONTROL PROGRAM

Original Signed By James L. Kavanaugh

James L. Kavanaugh
Director

JLK:jrl

c: Ms. Leanne Tippet Mosby, Division of Environmental Quality
Mr. Robert Geller, Hazardous Waste Program
Mr. Bob Hinkson, Hazardous Waste Program
Mr. Daniel Vornberg, Doe Run Company